

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

United States of America,  
Plaintiff,

v.

GEORGE LOREN REED,  
Individually and as Trustee of  
the REED FAMILY TRUST; DUANE  
REED, Individually and as  
Trustee of the REED FAMILY  
TRUST; LIDCO INC.; and  
SHIRLEY LUNDY,

Defendants.

CV-F-05-0431 OWW LJO (NEW DJ)

ORDER DENYING AS MOOT  
DEFENDANTS' MOTION FOR STAY OF  
FINAL JUDGMENT PENDING APPEAL  
(DOC. 50)

This case concerns the federal government's attempts to foreclose on real property to collect unpaid taxes. George Loren Reed, individually, Duane Reed, individually, and Shirley Lundy, individually, ("Defendants") move to stay the final judgment pending appeal. (Doc. 50, filed June 23, 2006.) The United States ("Plaintiff") opposes the motion. (Doc. 59, filed June 30, 2006.) The Reed Family Trust has not responded to the motion.

**A. Background.**

In a previous action before this court, *United States v. George Raymond Reed*, Civ. No. F-88-106 EDP, the United States secured money judgments against George Raymond Reed and Gladys

1 Reed (collectively the "Taxpayers") in the amount of \$283,272.33,  
2 plus penalties and interest since February 22, 1988.<sup>1</sup> On October  
3 2, 1991, abstracts of these judgments were recorded with the  
4 County Recorder's Office for Stanislaus County. On March 11,  
5 1992, the court allowed the United States to enforce its money  
6 judgments against the Taxpayers by foreclosing its federal tax  
7 liens on real property that Taxpayers owned. The foreclosure was  
8 not completed because of the Taxpayers' advanced age, their  
9 occupancy of the parcels, and the poor real estate market at that  
10 time.

11 On July 28, 2004, upon the deaths of the Taxpayers, the  
12 United States filed its motion for an amended order of  
13 foreclosure, seeking to enforce its money judgments against two  
14 parcels of real property. The government discovered additional  
15 parcels owned by George Raymond Reed and the Reed Family Trust  
16 encumbered by deeds of trust in favor of the three individual  
17 defendants.

18 On March 31, 2005, the United States initiated this action  
19 seeking to enforce its money judgments against three parcels of  
20 real property owned by the Taxpayers. (See Doc. 1, Compl.)  
21 Defendants are the heirs of the Taxpayers, successors in interest  
22 in this real property, and beneficiaries under deeds of trust  
23 encumbering the real properties. On June 10, 2005, the clerk of  
24 the court filed an entry of default against Defendants George

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26 <sup>1</sup> An abbreviated version of the factual and procedural  
27 history is set forth here. The court's Order Granting United  
28 States' Motion for Default Judgment, Final Judgment, and Order of  
Foreclosure contains a more thorough recitation of the background  
of this case. (See Doc. 49 at 1:25-8:1.)

1 Loren Reed and Duane Reed. (Doc. 23.) On September 27, 2005,  
2 default was entered against Defendant Shirley Lundy. (Doc. 33.)

3 On November 2, 2005, Plaintiff filed its Motion for Default  
4 Judgment, Final Judgment, and Order of Foreclosure. (Doc. 36.)  
5 Defendants did not file briefing in opposition to the motion or  
6 appear at the hearing to oppose the motion. Rather, on December  
7 8, 2005, they sought an order to extend time so they could obtain  
8 an attorney. The Court continued the hearing until January 9,  
9 2006. Defendants did not appear and did not obtain an attorney.

10 On February 2, 2006, the court issued its Order Granting  
11 United States' Motion for Default Judgment, Final Judgment, and  
12 Order of Foreclosure (the "Order"). (Doc. 49.) The Order  
13 authorized the Internal Revenue Service to offer for public sale  
14 certain real property (the "Property") held by Defendants and  
15 subject to federal tax liens. (Doc. 49 at 16:26-17:5.) On May  
16 3, 2006, Defendants filed their notice of appeal of the Order.  
17 (Doc. 51.)

18 On May 3, 2006, Defendants filed a motion for stay of the  
19 final judgment. The motion was briefed and heard on September  
20 17, 2006. No appearance was made at the hearing on behalf of  
21 Defendants.

22 Following the hearing, the court received by U.S. mail a  
23 letter from George Loren Reed indicating that he had filed for  
24 Chapter 11 bankruptcy on September 14, 2006.

25 On September 18, 2006, the Ninth Circuit's Order dismissing  
26 Defendants appeal was filed, dismissing the appeal for failure to  
27 file an opening brief (Doc. 64).

28 A court is permitted to take judicial notice of court

1 records in another case, including court records available to the  
2 public through the PACER system via the internet. *See United*  
3 *States v. Howard*, 381 F.3d 873, 876 n.1 (9<sup>th</sup> Cir.2004); *Jacobsen*  
4 *v. Schwarzenegger*, 357 F.Supp.2d 1198, 1207 (C.D.Cal.2004). The  
5 PACER system for the United States Bankruptcy Court for the  
6 Eastern District of California establishes that George Loren Reed  
7 filed a bankruptcy petition in Case No. 06-90363 on July 14, 2006  
8 and that the bankruptcy petition was dismissed by Order filed on  
9 August 31, 2006. The PACER system for the United States  
10 Bankruptcy Court for the Eastern District of California  
11 establishes that George Loren Reed filed a bankruptcy petition in  
12 Case No. 06-90522 on September 13, 2006 and that the bankruptcy  
13 petition was dismissed by order filed on November 20, 2006.

14 **B. Recusal.**

15 The court, *sua sponte*, raises the issue of whether recusal  
16 is appropriate because the undersigned presided over a criminal  
17 matter involving a party in this case, George Loren Reed. Under  
18 28 U.S.C. § 455(a), a district judge "shall disqualify himself in  
19 any proceeding in which his impartiality might reasonably be  
20 questioned." "Recusal is required 'only if the bias or prejudice  
21 stems from an extrajudicial source and not from conduct or  
22 rulings made during the course of the proceeding.'" *United*  
23 *States v. \$292,888.04 in United States Currency*, 54 F.3d 564, 566  
24 (9th Cir. 1995) (holding that district judge who presided over  
25 party's criminal trial was not for that reason disqualified from  
26 related civil forfeiture case under section 455); *see also Liteky*  
27 *v. United States*, 510 U.S. 540, 555 (1994) (holding that in the  
28 absence of some extrajudicial source of bias or partiality,

1 "judicial remarks during the course of a trial that are critical  
2 or disapproving of, or even hostile to, counsel, the parties, or  
3 their cases, ordinarily do not support a bias or partiality  
4 challenge"); *United States v. Martin*, 278 F.3d 988, 1005 (9th  
5 Cir. 2002).

6 The undersigned presided over George Loren Reed's criminal  
7 proceedings in United States v. Knight, 1:95-cr-05174 OWW-LJO-  
8 ALL. The court finds that nothing in the course of those  
9 proceedings evinces bias from an "extrajudicial source" that  
10 would cause the court's impartiality to reasonably be questioned.  
11 *See \$292,888.04 in United States Currency*, 54 F.3d at 566. Nor  
12 is there any bias against Mr. Reed, who was sentenced and  
13 presumably has paid his debt to society.

14 Accordingly, the court finds that recusal is not  
15 appropriate in this case.

16 **C. Stay of Final Judgment Pending Appeal.**

17 Because the bankruptcy petitions filed by George Loren Reed  
18 have been dismissed, the automatic stay no longer prevents  
19 resolution of Defendants' motion for stay pending appeal.

20 Because Defendants' appeal to the Ninth Circuit has been  
21 dismissed, Defendants motion for stay of final judgment pending  
22 appeal is DENIED as moot.

23 IT IS SO ORDERED.

24 **Dated: December 13, 2006**  
668554

**/s/ Oliver W. Wanger**  
UNITED STATES DISTRICT JUDGE